IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 174 OF 2006

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM :B.P.DHARMADHIKARI, J.
DATED : 14th DECEMBER, 2006.

Heard Advocate Shri A.S.Mardikar for petitioners, Advocate Shri Kailash Narwade for respondent No.3 and learned AGP Smt.Taiwade for respondents No.1 and 2.

Advocate Shri Mardikar before beginning, stated that perusal of original records of Gram Panchayat would be necessary and he pointed out that respondent No.4 – Secretary has not appeared though he is served. He invites attention to the dispute which according to him necessitates perusal of such record. He states that the bills were not served upon present petitioners and in any case the date under their signature has been put lateron only with a view to disqualify them. He contends that only with a view to safeguard the interest of the members in such contingencies, the Government has issued order dated 06/4/1996 which mandates Sarpanch and Secretary of Gram Panchayat to bring the aspect of demand and default to the notice of concerned Gram Panchayat member in the meeting of Gram Panchayat. He invites attention to the meeting allegedly held on 20/9/2004 to contend that there

was no such resolution in that meeting. He, therefore, contends that though the orders passed are concurrent, because the basic facts are not properly appreciated, the same deserve to be quashed and set aside.

Advocate Shri Narwade as also learned AGP Smt.Taiwade support the impugned order. They state that signature on bill form made by petitioner is admitted and they further state that the payment made is also admitted. According to him as payment has been made after 90 days of due date, the petitioners have been rightly disqualified.

I have perused the impugned order. I do not find any request made before the Collector to verify either the original proceeding book or original bill book. Similarly, the Additional Commissioner has also made same observation. The petitioners are not disputing their signature on demand bills. The Collector has observed that if responsible members like petitioners place their signature on demand bills, it was their obligation also to place date upon it. It is obvious that petitioners may not have put date below their signature only to avoid unpleasant circumstances.

In the circumstances, I find that even if petitioners content that said date is put lateron by somebody else is to be accepted, that cannot help the present petitioners. The petitioners having failed to discharge their duty cannot be permitted to raise such stand. The provision for disqualification is made in public interest and petitioners cannot be permitted to defeat it by raising such technical plea. The Government Order dated 06/4/1996 does not have the effect of amending the provisions of Bombay

Village Panchayats Act, 1958.

In such circumstances, other arguments in relation to not passing of resolution in the meeting of Gram Panchayat is not helpful to petitioners.

Hence, the petition is dismissed. No costs.

JUDGE

_Diwale